



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Wescott et al.

Art Unit : 1653

Serial No. : 10/034,974

Examiner : Robert A. Wax

Filed : December 21, 2001

Title : FIBRIN BINDING MOIETIES USEFUL AS IMAGING AGENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REPLY TO ACTION OF JUNE 30, 2004 AND SECOND RESPONSE TO RESTRICTION
REQUIREMENT

Responsive to the action mailed June 30, 2004 and the action mailed March 12, 2004, applicants again elect the invention of Group I drawn to the embodiment of polypeptides, magnetic resonance imaging agents and labeled polypeptides (claims 1-11, 20-24 and 27-31). The election is made without traverse.

Applicants thank the Examiner for the telephone conference of July 28, 2004 regarding the above-identified application and his suggestions for responding to his assertion in the action mailed June 30, 2004 that "a secondary election ... was required [in response to the restriction requirement]. That was not an election of species but, rather, a second restriction requirement within the first one."

Applicants disagree with this assertion. A review of the language in paragraph 6 of the restriction requirement dated March 12, 2004 makes it clear that the election of SEQ ID Nos: 7 and 25 in the response filed April 13, 2004 was proper. Specifically, at line 7 of paragraph 6 of the action dated March 12, 2004, the Examiner states "Applicants are required under 35 U.S.C. 121 to elect a single SEQ ID No. *for prosecution on the merits to which claims shall be restricted if no generic claim is finally held to be allowable.*" (emphasis added). Therefore, in

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7/29/04

Alissa Passavant

Alissa Passavant

response to this assertion, applicants properly elected the species of SEQ ID Nos: 7 and 25 for searching purposes.

In the action dated June 30, 2004, the Examiner indicated that "both sequences [SEQ ID Nos:7 and 25] are novel and unobvious." Since applicants regard the election of SEQ ID Nos: 7 and 25 as a species election, applicants elect SEQ ID NO:5 and SEQ ID NO:23 as the next species to search. If it would expedite matters for the Examiner, applicants will also elect the subgenus of an isolated polypeptide having the ability to bind fibrin comprising the amino acid sequence: Cys-Pro-X₃-Glu-X₅-Trp-X₇-Phe-Cys, wherein X₃ is Asp, Glu, Gly, Met or Trp; X₅ is Asn, Asp, Glu, Pro or Ser; X₇ is Leu or Thr (see claim 3). This subgenus covers the amino acid sequences of SEQ ID Nos:5, 23, 33, 34, 49 and 50, as well as SEQ ID Nos: 7 and 25 which the Examiner has already searched and found novel and unobvious.

If the Examiner maintains that a restriction of each of the sequences listed in the claims of the above-identified application is proper, applicants traverse this requirement. In the action dated March 12, 2004, the Examiner states that "depending on the sequence of each polypeptide, the characteristics of the resulting molecule will vary in regards to structure and function." While there may be some variability in the overall sequence and the ability to bind fibrin between each of these sequences, all of these sequences have the same overall structure, i.e., the consensus sequence provided in claim 1, and the same function, i.e., the ability to bind fibrin. As such, applicants submit that the specific sequences provided in the claims are related and should be maintained in the same application.


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If the Examiner believes that a telephone conference would help to expedite the prosecution of the above-identified application, applicants request that the Examiner contact the undersigned at 617-521-7814. No fees are believed to be due. If this is incorrect, please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 7/29/04


Laurie Butler Lawrence
Reg. No. 46,593

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906